



April 25, 2022

Brett Kruger
Chief, U.S. Carrier Licensing Division
U.S. Department of Transportation
1200 New Jersey Ave SE
Washington, DC 20590

RE: 2022-23 Havana Charter Pool Allocations
Docket DOT-OST-2020-0011

Dear Mr. Kruger:

We have followed with great concern the responses by select direct carriers on the attempts to both control and monopolize flights within the 2022-23 pool of 3600 Havana charter allocations established some time ago by Order 2020-5-7. At that time, the previous Administration's awards of charter allocations were made based on flown rotations in FY2019, of which HavanaAir's operations were a good one third of those flights. We now see some of these direct carriers making claims of tremendous investments and financial harm as the result of Covid 19 outages, and yet those carriers still experience performance issues and lack of aircraft (often due to prioritizing operations for subsidized ICE flights). Some have received tens of millions of dollars in Federal assistance during the Pandemic period. Others awarded charter allocations ostensibly to be used for direct sale public charter flights, *without required or authorized landing permits in Cuba*, now seek to solicit the licensed public charter operator community, i.e. those entities actually holding landing permits in Cuba, to utilize their direct sale inventory, or seek new entries to help facilitate the utilization of the charter allocations awarded for the carrier's direct sale flights.

Certainly, it cannot be the desire of DOT to allow direct carriers to control well established, licensed, and bonded Part 380 Charter operators, most of which are small businesses, however the result of DOT's Havana charter allocation regime. We are left without discretionary commercial decision making on who we choose to award our charter business. Though we are responsible for marketing, ticket

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sales, aircraft costs, fuel, landing fees and passenger satisfaction, it is us, the public charter operators, who are penalized with loss of charter allocations if we utilize the free market to choose carriers that best serve our customers. We at HavanaAir now may find ourselves at a disadvantage of awarded charter allocations to fulfill our long-term schedules as a result of us changing our direct carrier, specifically due to substantial and continued service problems with previous carriers (as well documented to the DOT in our previous multiple attempts to change our direct carrier). It is worth reminding DOT that several current carriers would not have legacy status within the Havana charter allocation regime if it were not for having previously flown HavanaAir's schedules in 2019.

We have been serving this market now for over a decade. Actions taken in 2019 were based on flown rotations of that year, of which over one-third were operator for HavanaAir. Now we may find ourselves endeavoring to have our direct carrier of choice receive enough charter allocations to facilitate our schedules for the 2022-23 charter year. A direct carrier who is determined to provide the utmost in service levels and reliable performance. Charter allocations are being awarded by DOT both for direct sale flights, thus reducing the available charter allocations, and for flights on behalf of new entries with less than 12 months of market experience, both in an attempt by these direct carriers to move market share to themselves. Often these direct carriers are forced to return awarded allocations back to the pool on a regular basis after receipt of such awarded inventory, without a Charter Operator with authorized landing permits

Below are examples of the issues that now arise based on potentially awarded charter allocations.

- GlobalX (our incumbent direct carrier) will be denied sufficient allocations to operate HavanaAir's schedule
- Havana Air would be penalized for exercising its commercial rights to utilize the carrier of its choosing
- Other Direct Carriers are undertaking an anticompetitive practice by attempting to restrict HavanaAir's access to the market by submitting schedules that cannot be operated
- The other two applicants for the entire charter allocation pool received advanced allocations

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Once again, we truly desire that the Department take into consideration those that have built these businesses over a decade, pay for these services in their entirety, and should be permitted the freedom of continuing our operations with the best suited direct carrier for our own needs and the needs of our passengers. We also desire the Department take into consideration that these direct carriers *hold no permits to land their aircraft* without a licensed charter operator, such as HavanaAir.

Mark Elias
President/COO



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